



South Carolina House of Representatives

# Legislative Update

David H. Wilkins, Speaker of the House

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*NOTE: Bill summaries included in this document are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.*

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# HOUSE WEEK IN REVIEW

On Tuesday, January 11, members of the House of Representatives convened for the commencement of the 116<sup>th</sup> South Carolina General Assembly.

The House took up the Governor's vetoes on several pieces of legislation that passed the General Assembly in 2004.

The House and Senate overrode the Governor's veto on H.3831, legislation requiring completion of **PRE-LICENSING EDUCATION COURSES FOR AN INITIAL NONFRANCHISE AUTOMOBILE DEALER LICENSE** to be issued.

The House and Senate overrode the Governor's veto on H.3409, legislation authorizing the establishment of a **FIREWORKS PROHIBITED ZONE**.

The House and Senate overrode the Governor's veto on H.3891, the "**ACUPUNCTURE ACT OF SOUTH CAROLINA**".

The House voted to override the Governor's veto on H.3507, legislation pertaining to the **AUTHORITY TO INSPECT COMMERCIALY LEASED REAL ESTATE, FIXTURES, AND EQUIPMENT**.

The House sustained the Governor's veto on H.5085, legislation authorizing a **SOUTH CAROLINA INCOME TAX DEDUCTION FOR ORGAN DONATION**.

The House sustained the Governor's veto on H.4455, legislation revising provisions for the **TRANSFER OF PRESCRIPTIONS BETWEEN PHARMACIES**; providing for the "**SOUTH CAROLINA REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST ACT**"; and establishing **REQUIREMENTS FOR PRACTICING HAIR BRAIDING**.

The House sustained the Governor's veto on H.4821, legislation pertaining to the **LICENSURE AND REGULATION OF OPTOMETRISTS** and **REQUIREMENTS FOR PRACTICING HAIR BRAIDING**.

The House sustained the Governor's veto on H.3552, legislation pertaining to **REPORTING INSTANCES OF CRUELTY TO CHILDREN, VULNERABLE ADULTS, OR ANIMALS**.

The House sustained the Governor's veto on H.4481, legislation enacting the "**SOUTH CAROLINA MILITARY PREPAREDNESS AND ENHANCEMENT ACT**".

The House sustained the Governor's veto on H.3065, legislation imposing **LIMITATIONS ON PROPERTY TAX INCREASES** and providing for other revenue matters.

Members adopted changes to the Rules of the House of Representatives:

- Rule 1.6, pertaining to voting by the Speaker of the House, was revised so as to provide that the Speaker may, in his discretion, address the body concerning matters of importance to the House.
- Rule 4.2, pertaining to the assignment of House members to committees, was revised so as to replace the Speaker's authority to excuse a member from a committee with a provision that authorizes the Speaker to remove a member from a committee for conduct unbecoming a member.
- Rule 6.1(b), pertaining to the Speaker's authority to call the House into a perfunctory statewide session, was revised to provide that such perfunctory sessions are not considered statewide days for the purpose of calculating the notice requirements provided in Rules 5.10 and 9.1.

## HOUSE COMMITTEE ACTION

### AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

### EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee met this week to consider **H.3010**, regarding creation and operation of the **CAROLINA PUBLIC CHARTER SCHOOL DISTRICT**. The bill was referred back to subcommittee, where it was amended and reported out favorably. **H.3010** is on the agenda for consideration by the full committee on January 18.

### JUDICIARY

The full committee did not meet this week.

### LABOR, COMMERCE AND INDUSTRY

The full committee did not meet this week.

### MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee met but did not consider any legislation this week.

## WAYS AND MEANS

The Ways and Means Committee considered two bills this week: **H.3234**, regarding **AIR CARRIER HUB TERMINAL FACILITIES**, and **H.3006**, the **2005 JOBS CREATION ACT**.

The Committee reported favorable with amendment on **H.3234**. Currently, the State may issue General Obligation Bonds for **AIR CARRIER HUB TERMINAL FACILITIES** meeting certain criteria. These funds may be used for acquiring land, constructing, improving, and equipping facilities, and for purchasing equipment and machinery related to the facility. As reported by the Committee, **H.3234** expands the definition of "air carrier hub terminal facility" to also include (irrespective of the number of flights) facilities that will use two or more specially equipped planes that are used for the transportation of specialized cargo and subject to *ad valorem* property taxation or a fee in lieu of taxes in South Carolina. The bill also amends the statutory definition of an "air carrier" to mean a corporation licensed by the Federal Aviation Administration with a certificate of public convenience and necessity or an operating certificate under other applicable federal law or pertinent regulations which operates aircraft to or from an air carrier hub terminal facility. The Committee also added a provision that the term "air carrier hub terminal facility" includes an economic development project, as defined in the State General Obligation Economic Development Bond Act, that is functionally related to a facility satisfying one of the criteria included in the definition of an air carrier hub terminal facility. The Committee also amended the bill to provide that a request for the issuance of bonds must be accompanied by a binding contract with either an air carrier or the principal user of the air carrier hub terminal, to be financed with the issuance of the obligation. Currently, the contract may only be with an air carrier. The Committee also amended the bill to provide that if the Secretary of Commerce (the Secretary) recommends that the Budget and Control Board (the Board) consider approving the issuance of bonds, he shall forward his written approval and request to both the Joint Bond Review Committee (JBRC) and the Board, rather than only to the Board. The bill also requires that the Secretary's approval and request must be accompanied by a certificate establishing the maximum principal amount of the bonds requested to be authorized; a description of the infrastructure for which the bonds are to be issued; and a tentative time schedule for the time during which the sum requested is to be expended. The bill provides that following the receipt of the approval and request from the Secretary, and after approval by the JBRC, the Board may approve the issuance of the bonds.

The Committee reported favorable with amendment on **H.3006**, the **2005 JOBS CREATION ACT**. As reported by the Committee, this bill establishes and provides for an income tax credit of up to 25% of an equity investment made in a qualifying business, not to exceed \$100,000 per investor. The bill allows a five-year carry-forward for the credit, and provides that the total credit statewide may not exceed ten million dollars. The bill defines the three types of business which are eligible for equity funding under the bill as: 1) eligible small businesses with gross receipts of \$2 million or less (businesses engaged in retail, professional services, banking, financial, and real estate services are not eligible); 2) a business which has received funding pursuant to the federal Small Business Innovation Research Program; and 3) a business with gross receipts of \$2 million or less that is commercializing technology for one of the state's three research universities. The bill requires businesses to register with the Secretary of

State in order for investors to receive the credit, and requires that businesses must renew their registration annually to remain qualified. The bill includes reinstatement provisions for businesses which fail to renew. The bill also provides that investors will forfeit the credit if: 1) within three years after the investment is made, the investor or other related person participates in the operation of a qualified business; 2) the registration of the qualified business is revoked because of false information on the application; 3) within one year after the investment is made, the taxpayer transfers any of the equity, near-equity, or seed capital received in the investment that qualified for the tax to another person or entity (except under certain circumstances). The bill provides that the Coordinating Council for Economic Development will allocate the credit, and it may annually reserve up to \$2 million of the \$10 million credit for investments in qualifying businesses which are engaged in hydrogen fuel cell research and development; Clemson University International Center for Automotive Research; technology incubators for the Medical University of South Carolina; and nanotechnology.

The bill also creates a **CAPITAL ACCESS PROGRAM (CAP)**, to be established by the Business Development Corporation of South Carolina (BDC) with an initial appropriation of \$2.5 million, to assist participating financial institutions making loans to small businesses located in the state that otherwise find it difficult to obtain regular bank financing. Under this program, a qualifying small businesses is defined as one with retail sales or annual revenue not to exceed \$2 million; or wholesale sales less than \$5 million; or a manufacturing business with no more than 50 employees. Under the program, the BDC will establish terms and conditions under which financial institutions will participate. The bill provides terms and conditions under which financial institutions may originate loans under the program. The bill provides that each tax incentive enacted in the bill shall be repealed for tax years beginning after five years from the date of enactment, unless a different time frame is provided in the bill. The bill provides that for purposes of income and license tax and sales and use tax, nexus will be determined without regard for whether the taxpayer owns or utilizes a distribution facility in South Carolina.

The bill also **AMENDS THE MOTION PICTURE INCENTIVE ACT** (the Act), including numerous technical changes as well as the following changes:

- The Act broadened an existing state sales tax exemption for machinery and supplies used in filming. This bill extends that same exemption to local sales tax.
- The Act created a 5% wage rebate based upon the wages paid to employees of motion picture production companies. This bill clarifies that employees of loan-out or personal service corporations qualify for the rebate.
- The bill provides additional detail and guidance on how a motion picture production company obtains the 5% wage rebate.

## **BILLS INTRODUCED IN THE HOUSE THIS WEEK**

### **AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS**

**H.3235 WATER USAGE DURING A DROUGHT Rep. Bill**

This bill relates to drought response and the curtailment of nonessential water use during severe or extreme drought. Under this bill, certain agricultural purposes are considered essential water use and are exempt from mandatory curtailment of nonessential water uses.

**H.3236 ADULTERATED FOOD Rep. Bill**

This bill authorizes the Commissioner of Agriculture by emergency regulation to take certain actions regarding microorganism food contamination. As to the authority of the Commissioner of Agriculture to enter and inspect premises in regard to adulterated food, this bill authorizes the Department of Agriculture to conduct the analytical work necessary for the proper enforcement of these provisions.

Under this bill, persons subject to inspection under adulterated food laws shall not be permitted to engage in the manufacturing, processing, warehousing or packing of food without first obtaining a permit. The bill allows the Department to establish fees for the permits, and the bill provides for penalties for violations. With regards to prohibited acts relating to adulterated or misbranded food and cosmetics, this bill also prohibits operating without a valid permit pursuant to S.C. Code Ann. §46-3-20.

The bill authorizes the Department to employ all help necessary to carry out and enforce the provisions of adulterated food laws. The bill authorizes the Department to designate any employee to perform any duties necessary to carry out these provisions.

This bill authorizes the Commissioner to promulgate regulations setting standards for the labeling and certification of food products using the "South Carolina Quality" label.

**H.3238 DEPARTMENT AND COMMISSIONER OF AGRICULTURE  
Rep. Witherspoon**

This bill makes revisions to the organization, duties and procedures of the Department and Commissioner of Agriculture.

Among other things, the bill authorizes the Commissioner to seek injunctive relief and protection from those persons violating laws administered by the Department. The Commissioner may seek assistance of law enforcement officials to help in the enforcement of these laws when it is warranted to provide protection and safety of the general public from imminent peril.

The bill authorizes the Commissioner to charge administrative fees by regulation regarding certain services and products. The bill also authorizes the Department to accept gifts, grants of services, properties, or monies from any federal, private or public entity so long as the purpose of the grant project is related to the promotion and support of agriculture.

Currently, the Commissioner may sue or be sued in the courts upon the same terms as any other person. Current law allows suits to be brought in Richland County or in the county in which the cause of action accrued. Under this bill, suits may only be brought in Richland County.

**H.3239 “NO MORE HOMELESS PETS” LICENSE PLATES Rep. Witherspoon**

Fees from the “No More Homeless Pets” licenses plates go to a special fund to support local animal spaying and neutering programs. This bill provides that the Department of Agriculture rather than the State Veterinarian is authorized to designate the uses of monies in the special fund and to receive special fund monies for administering the program.

**H.3240 GRAIN DEALERS GUARANTY FUND Rep. Witherspoon**

This bill repeals Chapter 40 of Title 46 of the South Carolina Code of Laws relating to the Grain Dealers Guaranty Fund upon certification by the Commissioner of Agriculture that all loans received by the guaranty fund from the State Insurance Reserve Fund have been paid in full.

**H.3241 LABELING AND MARKETING OF EGGS Rep. Witherspoon**

This bill makes revisions pertaining to the labeling and marketing of eggs offered for sale in South Carolina.

Current law provides that wholesalers handling eggs must be licensed by the Department of Agriculture. Under this bill, all wholesalers, distributors, commission merchants, brokers and dealers who desire to offer eggs for sale must file for a license with the Commissioner of Agriculture. The bill further provides that a person may not engage in business as a wholesaler or as a distributor without first obtaining a license.

The bill requires wholesalers, distributors and retailers to maintain records of their invoices of their egg purchases for at least 90 days. The bill authorizes the Commissioner or his designee to enter, during regular business hours, the place of any producer, wholesaler, retailer, retail establishment, institution, institutional user, warehouse, cold storage house, or other storage places, trucks or carriers where eggs are stored and inspected.

The bill requires shell egg producers to refrigerate eggs upon gathering the eggs. Eggs must be graded and packed within a reasonable period of time from gathering. The bill requires that eggs be transported, stored and displayed at ambient temperatures to not exceed 45 degrees Fahrenheit until sold at retail or used. The bill makes it unlawful to offer eggs for sale that are not being properly stored in a refrigerated state at the proper temperature.

The bill requires the Department to establish standards for the grading, classification and marking of shell eggs bought and sold in South Carolina. Standards must conform to the minimum federal standards.

The bill requires labeling to occur at the time of packing and candling of each case of eggs. The bill prohibits the use of abbreviations of any words in the classification or in designating the grade and size of the eggs. The wording must be in English on the labels. The bill requires that all eggs offered for sale at retail in open cases, boxes or other containers from which eggs are sold in bulk must also be properly classified. The bill details requirements for the placard.

**H.3246 BIRD SANCTUARY IN LAURENS COUNTY Rep. Duncan**

This bill declares as a bird sanctuary the grounds of the Presbyterian Home of South Carolina located on Highway 56 in the town of Clinton in Laurens County.

**H.3262 TURTLES Rep. J.E. Smith**

Under this bill, it is unlawful to export for commercial purposes live sea or freshwater turtles which are caught or captured in the wild in South Carolina. Penalties are established for failure to comply.

**H.3272 OFFICIAL STATE SOIL Rep. Brady**

This bill designates "bohicket" as the official State soil.

**H.3275 HUNTING PRIVILEGES Rep. Duncan**

Under this bill, any person who is convicted of or pleads guilty or no contest to a criminal offense resulting from the shooting of any bovine or equine animal shall also have his hunting privileges suspended for a period of two years. Before the suspension period may be lifted, the bill requires the offender to successfully complete a hunter education class or course educating the offender on the proper use of weapons, game identification, and safety.

## **EDUCATION AND PUBLIC WORKS**

**H.3237 PEANUT WAGONS Rep. Witherspoon**

This bill provides to peanut wagons an exemption from statutory provisions governing size, weight, and load limits.

**H.3245 CHANGE REFERENCES REGARDING VOCATIONAL  
EDUCATION, TRAINING, PROGRAMS, ETC. Rep. Talley**

This bill changes statutory references to "Vocational Education," "Vocational Training," "Vocational Programs," and others to "Career and Technology Education," "Career and Technology Training," and "Career and Technology Programs."

**H.3248 STUDY REGARDING SCHEDULING PACT TEST/UNIFORM  
STATEWIDE SCHOOL CALENDAR Rep. Rice**

This bill requires the Education Oversight Committee to conduct a study regarding school scheduling in relation to PACT testing. The bill requires the Committee to make a recommendation, as described in the bill, to the General Assembly for a uniform statewide school calendar by March 15, 2005. The bill provides that the start date must be on or after August 25, and that if a school district elects to begin before this date, the Department of Education shall withhold EFA funds for each day of school preceding the statewide uniform start date.

**H.3289 OPEN ENROLLMENT Rep. Walker**

This bill provides for open enrollment for students without charging tuition except in certain circumstances, and requires and provides for the development of open enrollment policies and procedures by district school boards. "Open enrollment" is defined in the bill as a public education delivery system that allows school districts to make student school assignments using parents' indicated preferential school choice as a significant factor.



**H.3299 OLD SHELDON CHURCH ROAD SCENIC BYWAY Rep. Ceips**

This bill provides that a specified section of roadway in Beaufort County is designated as a South Carolina Scenic Byway, to be known as Old Sheldon Church Road Scenic Byway.

## JUDICIARY

**H.3243 "YOUTH ACCESS TO TOBACCO PREVENTION ACT OF 2005"**

**Rep. Talley**

This bill enacts the "Youth Access to Tobacco Prevention Act of 2005" which revises provisions of law disallowing the supplying of minors with tobacco and tobacco-related products.

Among other things, this bill provides that it is unlawful for a person to sell, furnish, give, distribute, purchase for or provide a minor under the age of 18 with cigarettes, tobacco, cigarette paper or a tobacco product. The bill also provides that it is unlawful to sell a tobacco product to an individual who does not present upon demand proper proof of age. Proof of age is not required from an individual who the person reasonably believes to be over 27 years of age. The bill further provides that a retail distributor of tobacco products must provide training to its employees about the proper way to sell tobacco related products. Any retail establishment that does not provide training is subject to a fine.

The bill makes it unlawful for a person under 18 to purchase, accept receipt, attempt to purchase, or attempt to accept receipt of a tobacco product, or present or offer to a person proof of age which is false for the purpose of obtaining a tobacco product. Exceptions are provided for individuals under 18 working with law enforcement officials. The bill also makes it unlawful for a person under 18 to possess a tobacco product. Exceptions are made for people under 18 who make certain deliveries. The bill also places restrictions on tobacco products accessible from vending machines. Penalties are established.

**H.3244 AGENCY REPORTS TO THE GENERAL ASSEMBLY Rep. Talley**

With the exception of the Governor's Executive Budget and related documents and telephone directories, this bill provides that an entity of state government required by law to report to the General Assembly shall prepare its report and notify the members of the General Assembly by mail or email that the report is available upon request. The bill prohibits the distribution of hard copies of the report; instead, the bill provides that a hard copy of the publication may be provided to a member of the General Assembly if the member requests the publication. Provisions are in the bill for agencies to transmit their reports by electronic means. The Speaker of the House and the President Pro Tempore of the Senate may authorize the distribution of hard copies of reports.

**H.3256 MANSLAUGHTER Rep. Kirsh**

Under this bill, a person may be charged with the offense of manslaughter, if the death of another person is proximately caused by the unlawful distribution or trafficking in ice, crack, or crack cocaine, and the ingestion of the drug causes the death of the user. The bill also provides for an increase in the sentence if a person under the age of 18 is

endangered or a law enforcement officer is injured by one of the hazards related to the manufacture of the drug.

**H.3257 CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY  
DD FORM 214 Rep. Kirsh**

This bill provides that a person retired or discharged from the Armed Services of the United States who has filed his release or discharge certificate now known as DD Form 214 with the clerk of court of any county of this state for safekeeping or other purposes may invalidate this filing and remove it from the public records pursuant to specified procedures.

**H.3258 UNLAWFUL DISCHARGING OF A FIREARM ON SCHOOL  
PROPERTY**

**Rep. Kirsh**

This bill makes revisions to the current law pertaining to the unlawful discharge of firearms. This bill adds that it is unlawful for a person to discharge a firearm at or into the premises or property owned by a private or public school. Penalties are established for failure to comply.

**H.3259 RIGHTS OF A PERSON CONVICTED OF CRIMINAL SEXUAL  
CONDUCT WHEN A CHILD IS CONCEIVED AS A RESULT OF THE  
OFFENSE Rep. Kirsh**

This bill provides that a person convicted of a criminal sexual conduct offense does not have custody rights of or rights of inheritance from a child born as result of the offense.

With regards to intimidation of court officials, jurors, or witnesses, this bill adds that it is unlawful for a defendant in a criminal proceeding to threaten a witness with the assertion or denial of parental rights.

Relating to persons from whom consent or relinquishment for adoption is required, this bill provides that consent or relinquishment is not required from the biological father if the child who is the subject of the adoption proceeding was conceived as a result of criminal sexual conduct.

**H.3260 MURDER Rep. W.D. Smith**

This bill pertains to the punishment for murder when the victim is the defendant's spouse. This bill includes as a separate aggravating circumstance which may be considered in the determination of whether the death penalty may be imposed, the following: a murder of a person's spouse while the person is subject to a valid order of protection, the person is violating a condition of bond, or the person is violating a restraining order. The bill also includes as a separate aggravating circumstance which may be considered in the determination of whether the death penalty may be imposed the murder of a person's spouse if the person has a prior conviction for criminal domestic violence involving the same victim.

**H.3261 USE OF THE COMPUTER BY A COUNTY FOR DRAWING AND  
SUMMONING JURORS Rep. W.D. Smith**

This bill relates to the use of the computer by a county for drawing and summoning jurors. The bill provides that the physical presence of jury commissioners is not required. Under the bill, the drawing and summoning must take place publicly in the office of the clerk of court. The Supreme Court shall direct by order appropriate procedures required to implement the provisions of this bill.

**H.3271 ALCOHOLIC LIQUORS AND BEVERAGES Rep. Cotty**

This is a bill to ratify an amendment to Section 1, Article VIII-A of the Constitution of South Carolina, 1895, relating to the powers of the General Assembly pertaining to alcoholic liquors and beverages, so as to regulate their sale in containers of such size as the General Assembly considers appropriate.

**H.3273 FRESHMEN CAUCUS Rep. Clemmons**

This bill relates to definitions concerning lobbyists and lobbying and campaign practices. The bill adds the definition of "freshman legislators" as well as revises the definition of "legislative caucus" to include a caucus based on a membership of freshman members.

**H.3274 APPEALS IN FAMILY COURT MATTERS Rep. Altman**

This bill relates to appeals and the effect of pendency of an appeal in certain Family Court matters, so as provide that no ten-day automatic stay applies in such cases.

**H.3285 APPEALS INVOLVING A FINAL DECISION BY AN ADMINISTRATIVE LAW JUDGE INVOLVING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL Rep. Wilkins**

This bill provides that a final decision by an administrative law judge involving the Department of Health and Environmental Control may be appealed as a matter of right to the Court of Appeals.

**H.3290 NONPARTISAN ELECTIONS OF SCHOOL BOARDS OF TRUSTEES Rep. Walker**

Beginning in 2006, this bill would require that members of the boards of trustees of school districts must be elected in nonpartisan elections. The bill provides for the dates of the elections, terms of candidates elected, method of nomination of candidates, filling of vacancies, and conduct of the elections.

**H.3298 ORAL WAIVER OF PRESENTMENT TO GRAND JURY Rep. W.D. Smith**

When entering a guilty plea and the defendant's case has not been presented to the grand jury, current law requires the defendant to sign a waiver of the presentment to the grand jury. This bill allows the defendant to request that the presiding judge enter on the record his/her verbal waiver of the presentment to the grand jury at the time of his/her plea of guilty.

**H.3306 RELIGIOUS REFERENCES ON PUBLIC DISPLAYS, MONUMENTS, AND OR PLAQUES Rep. Toole**

This bill provides that religious references to God, a deity, or a higher power of any denomination or religion may be used in approved displays, monuments, plaques, or similar fixtures in State or local public areas, buildings, or places.

**H.3307 THEFT OF HEALTH CARE SERVICES Rep. Edge**

This bill creates a cause of action for theft of health care services when a person secures performance of such services, has received insurance proceeds or third party payment to pay for such services, and within 90 days of receiving proper notice has not remitted the payment to the health care provider. The bill establishes notice requirements, a schedule of damages, including actual damages and a percentage of the actual damages, and defenses to this cause of action.

The bill also provides that a health care service provider who accepts a down payment for compensation in order to perform health care services for a person and fails to perform the services is subject to a cause of action for reimbursement of the down payment made and is also subject to allege liquidated damages.

## **LABOR, COMMERCE AND INDUSTRY**

### **H.3263 TIME OFF FROM WORK TO VOTE IN ELECTIONS Rep. J. E. Smith**

This bill provides that an employee in this State is permitted, upon reasonable notice to his employer, to take any necessary time off from his employment, not to exceed two hours, to vote in a municipal, county, state, or federal political party primary or election for which the employee is qualified and registered to vote. If the hours of work of the employee begin at least two hours after the opening of the polls or end at least two hours before the closing of the polls, then this time off for voting is not available. The employer may specify the hours during which the employee may absent himself.

### **H.3284 DISSOLUTION OF THE SECOND INJURY FUND Rep. Sandifer**

This bill provides for the orderly dissolution of the Second Injury Fund and to provide for subsequent actions to be taken by the Budget and Control Board relating to the winding down of operations of the fund.

### **H.3286 PUBLIC SERVICE COMMISSION APPROVAL OF CABLE TELEVISION**

#### **RATES AND CHARGES Rep. Scarborough**

This bill provides that beginning July 1, 2005, the rates and other consumer charges of cable television companies operating in South Carolina shall be approved by the Public Service Commission. This provision shall not restrict the authority of municipalities and counties to issue franchise licenses to cable television companies operating within their territorial limits or otherwise regulate the operation of cable television companies.

### **H.3288 WORKERS' COMPENSATION DISALLOWED FOR ILLEGAL ALIENS AND THOSE GAINING EMPLOYMENT THROUGH FRAUD Rep. Sandifer**

This bill provides that compensation, either lost wages or medical, is not allowed for an injury or death, when the injury or death occurred to an individual who is an illegal alien and/or who gained employment through fraudulent means, including, but not limited, to falsification of application, invalid social security number, or falsified or invalid immigration papers.

### **H.3303 RANGE HOOD SUBCLASSIFICATION OF MECHANICAL CONTRACTOR LICENSE Rep. Talley**

This bill revises provisions for general contractor license classifications and subclassifications, so as to add range hood installation, replacement, alteration, and repair as a subclassification under mechanical contractors.

**H.3309 “VIATICAL SETTLEMENTS ACT” Rep. Cato**

This bill enacts the Viatical Settlements Act, to provide for the protection of contractual and property rights of a life insurance policy owner to seek a viatical settlement; to establish consumer protections by providing for the regulation of a viatical settlement transaction; to provide for the licensing and regulation of a viatical settlement provider and others involved in a viatical settlement transaction; and, to provide for anti-fraud measures, and to provide penalties for violations.

## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

**H.3249 *LICENSURE AND REGULATION OF OPTOMETRISTS* Rep. White**

This bill rewrites the practice act for optometrists to make it conform to the administrative framework established for all boards and commissions administered by the Department of Labor, Licensure and Regulation (LLR). The bill does make some substantive changes as well.

Among other things, the bill requires that an individual must have a Bachelor of Arts or Bachelors of Science Degree in order to be licensed as an optometrist instead of just two academic years at an accredited college of university. This change is in addition to the existing requirement for graduation from a school of optometry. The bill also provides for licensure by endorsement for optometrists licensed in another state.

This bill provides that by September 30, 2008, all licensed optometrists must be licensed as therapeutically-certified optometrists. Therapeutic certified optometrist means an optometrist educated and trained in the use of pharmacological agents for diagnostic and therapeutic purposes and licensed to practice optometry with the use of pharmacological agents for diagnostic and therapeutic purposes. Currently there are three types of licensed optometrists: basic certified, diagnostically certified, and therapeutically-certified. A basic certified optometrist is licensed to practice without the use of drugs for diagnostic or therapeutic purposes. A diagnostically certified optometrist may use certain drugs for diagnostic procedures and miotics only for emergency purposes involving eyeball pressure.

**H.3250 *CONTACT LENSES* Rep. White**

This bill provides that it is unlawful for a person to dispense contact lens or lenses without first having obtained a valid, unexpired contact lens prescription from a licensed optometrist or ophthalmologist. The bill also outlines certain items that a contact lenses prescription must include. Under the bill, a prescription is generally valid for a 12-month period. The bill further requires that a contact lens prescription, written and signed by an optometrist or ophthalmologist, must be released without additional charge, upon request of the patient. Penalties are established for failure to comply with the provisions of this bill.

**H.3254 “REGISTERED SURGICAL TECHNOLOGIST AND LICENSED SURGICAL ASSISTANT PRACTICE ACT” Rep. Howard**

This bill enacts the “Registered Surgical Technologist and Licensed Surgical Assistant Practice Act.” The stated purpose of the legislation is to protect and benefit the public without a financial burden to the people of South Carolina by setting standards of qualifications, education, training, experience and professional conduct for those who seek to hold the title of registered surgical technologist and licensed surgical assistants.

Among other things, the bill requires that in order to be licensed as a registered surgical technologist, the person must be certified nationally. The bill also requires that in order to be licensed as a surgical assistant the person must be certified nationally. The bill also establishes an advisory committee for surgical technologists and surgical assistants under the Board of Medical Examiners.

**H.3308 “S.C. PRESCRIPTION MONITORING ACT” Rep. Edge**

This legislation creates the “S.C. Prescription Monitoring Act.” The bill authorizes the Department of Health and Environmental Control and Bureau of Drug Control to establish a program to monitor the prescribing and dispensing of Schedule II-V controlled substances. The bill provides the manner and procedures under which dispensers are to provide such information; the bill further provides for the use and confidentiality of this information. Penalties are established for dispensers that fail to submit the required information; penalties are also established for people who knowingly disclose confidential information.

## **WAYS AND MEANS**

**H.3234 AIR CARRIER HUB FACILITIES Rep. Harrell**

This bill revises state funding of air carrier hub terminal facilities by including a facility that (irrespective of the number of flights) operates two or more special, state-taxed planes for the transport of special cargo and is subject to *ad valorem* property taxation or a fee in lieu of taxes in this state. The bill also provides that the term “air carrier hub terminal facility” includes an economic development project as defined in the State General Obligation Economic Development Bond Act, that is functionally related to a facility satisfying one of the criteria included in the definition of an air carrier hub terminal facility. The bill provides that the Secretary of Commerce’s determination that a facility satisfies one or more of the criteria necessary to qualify as an air carrier hub terminal facility, upon approval by the State Budget and Control Board of the issuance of the obligations described in the bill, is conclusive and is not subject to further challenge or review, absent fraud or collusion. (NOTE: See amendments to this bill under Ways and Means Committee meeting summary)

**H.3255 PROHIBITION OF “PASS THROUGH” APPROPRIATIONS Rep. Kirsh**

This bill prohibits “pass through” appropriations in an act or joint resolution appropriating funds to a state agency and prohibits a state agency from awarding a grant of state appropriated funds except as provided in the bill.

**H.3264 PROPERTY TAX INCREASE EXEMPTION/REASSESSMENT**

**Rep. Townsend**

This bill exempts from property tax an amount of fair market value of certain owner-occupied real property located in the county, sufficient to eliminate any increase in fair market value attributable to a countywide appraisal and equalization program. The bill provides that once the fair market value of the property is first reduced, that reduced value remains the fair market value subject to property tax, regardless of further increases in fair market value of that real property as determined in subsequent countywide appraisal and equalization programs. The bill provides that when real property is transferred so that the property is no longer eligible for the exemption, the property is subject to being taxed in the tax year following the transfer at its value, at current fair market value as determined by the County Assessor. The bill includes relevant notice requirements for closing attorneys in a real estate transfer and includes provisions and procedures required to qualify for the exemption.

**H.3287 MEDICAID ACCOUNTABILITY AND IMPROVEMENT**

**ACT Rep. Wilkins**

This bill enacts the "Medicaid Accountability and Improvement Act." The bill requires the Department of Health and Human Services (the Department) to publish annually a South Carolina Medicaid annual report containing specified actions from the preceding state fiscal year regarding the Medicaid program. The bill also requires the Department to develop eligibility determination criteria and procedures for full benefit Medicaid applicants as described in the bill. The bill requires the Department to conduct regular audits of eligibility files and requires that the Department maintain an electronic interface with the State Employment Security Commission to provide employment and earning information on Medicaid applicants. The bill provides that to be considered valid for Medicaid eligibility purposes, a promissory note must be actuarially sound, require monthly installments that fully amortize over the life of the loan, and be free of any conditional or self-canceling clauses. The bill also includes requirements for health insurers to report identifying information on their insureds, which would be used to identify Medicaid recipients who have other health coverage. The bill also provides procedures for Medicaid utilization control and care management, including the establishment of a 15 member Pharmacy and Therapeutics Committee comprised of physicians and pharmacists and charged to make recommendations, among other things, to the Department concerning therapeutic classes of drugs to be included on a preferred drug list. The bill includes required procedures regarding any preferred drug list programs implemented by the Department. The bill also provides Medicaid fraud and abuse controls including required audits, reviews, investigations, and inspections of providers, and provides that the Department may only reimburse for "medically necessary services" as those services are defined in the bill. The bill authorizes and provides for the Department to sanction providers in violation of fraud and abuse control provisions.

**H.3296 DEPARTMENT OF TRANSPORTATION STATE NON-FEDERAL  
AID HIGHWAY FUND**

**Rep. Harrell**

This bill dedicates to the Department of Transportation (DOT) State Non-Federal Aid Highway Fund, certain fines and fees related to: use of dyed motor vehicle fuels; petroleum products; user fees on gasoline; driver's licenses, permits, and special identification cards; and motor vehicle registration and licensing. The bill eliminates, over a five year period, funding provided to the South Carolina Coordinating Council for

Economic Development from the gasoline user fee. The bill provides that DOT operational revenues must be placed in either the State Highway Fund or the State Non-Federal Aid Highway Fund (currently this revenue may only be placed in the State Highway Fund), and the bill provides for a declining schedule of payments for DOT's cost of administration.

**H.3297 SALES TAX EXEMPTION FOR PRESCRIPTION TREATMENTS  
FOR RHEUMATOID ARTHRITIS Rep. Harrell**

This bill provides an exemption from sales tax for prescriptions for the treatment of rheumatoid arthritis.

**H.3300 PRIVATIZING PRT GOLF COURSES Rep. Vick**

This bill provides that golf courses and related facilities operated as part of the state park system by the Department of Parks, Recreation, and Tourism (PRT) at which the fees and charges paid by members of the general public for the previous year at the facility at least equal the cost of operation of the golf courses and facilities for the previous year must be operated by employees of PRT and not by third party private contractors.

**H.3301 HOMESTEAD EXEMPTION ADJUSTMENT Rep. Vaughn**

This bill provides that the \$50,000 homestead exemption provided to persons over sixty-five years and to persons who are disabled, must be indexed to inflation in the same manner and percentage that federal income tax brackets are adjusted to reflect increases in the consumer price index.

**H.3302 PROPERTY TAX CALCULATION/IMPOSITION Rep. Vaughn**

This bill provides that for the property tax year of implementation of a countywide assessment and equalization program, the property tax millage of all property taxing entities in the county must be adjusted to a rate estimated to produce no more revenue than the total of such revenue received by the entity in the preceding property tax year, increased by a percentage equal to the average year-to-year growth of property tax revenue to the entity in the four years preceding the year of implementation, plus one percent. The bill includes debt service and other capital improvement financing costs in this limit.

**H.3304 TOBACCO ESCROW FUNDS Rep. Witherspoon**

This bill provides requirements, procedures, and civil and criminal penalties intended to enhance the enforcement of provisions of the Tobacco Escrow Fund Act and to safeguard the Master Settlement Agreement.

The bill requires tobacco product manufacturers whose cigarettes are sold in this state to deliver an annual certification to the Attorney General certifying that the manufacturer is a participating manufacturer or is in full compliance with statutory provisions requiring participation in the Master Settlement Agreement or depositing funds in a qualified escrow fund. The bill delineates information which must be provided in the certification by participating manufacturers and by nonparticipating manufacturers.

The bill requires that the Attorney General make available for public inspection a directory listing all tobacco product manufacturers that have provided current and



accurate certifications and all brand families that are listed in the certifications, with certain exceptions provided for specified nonparticipating manufacturers. The bill includes conditions and procedures for removing nonparticipating manufacturers from the directory.

The bill provides that it is unlawful to: affix a stamp to any container of cigarettes of a manufacturer or brand family not included in the directory if such a stamp is required by law or; sell, offer, acquire, hold, own, possess, transport, import, or cause to be imported for sale in this state cigarettes of a manufacturer or brand family not included in the directory. The bill provides that persons who violate this prohibition are engaging in an unfair and deceptive trade practice. The bill provides that persons who violate this prohibition with knowledge of the prohibition are guilty of a misdemeanor punishable by a fine of up to one thousand dollars, imprisonment for one year, or both. The bill authorizes the Attorney General to revoke or suspend the license of a cigarette distributor who violates these provisions and authorizes the Attorney General to impose a civil penalty for each violation in an amount up to the greater of five times the retail value of the cigarettes or five thousand dollars.

The bill includes requirements for certain nonresident or foreign nonparticipating manufacturers to have an agent in this state for the service of process regarding actions or proceedings arising from enforcement of the provisions of the bill. A nonparticipating manufacturer who does not have an agent is deemed to have appointed the Secretary of State as the agent.

The bill includes requirements for cigarette distributors to regularly submit information the Attorney General requires to facilitate compliance with the provisions of the bill.

The bill provides for seizure, forfeiture and destruction of cigarettes declared to be contraband. The bill provides that it is a felony for a cigarette manufacturer, importer, distributor, or retailer to sell or possess counterfeit cigarettes, and provides penalties including fines and imprisonment for first and subsequent violations of this provision.

**H.3305 MONTHLY PAYMENTS OF REAL PROPERTY  
TAXES Rep. J.E. Smith**

This bill authorizes monthly installment payments of real property taxes.

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